

To Teach Legal Design — Change Design By Design

M. Wszolek¹ & D. Pluchowska²

¹ SWPS University of Social Sciences and Humanities Graphic Design Department, <https://orcid.org/0000-0002-8830-189X>

² SWPS University of Social Sciences and Humanities Graphic Design Department, <https://orcid.org/0000-0002-5925-5177>

Correspondence: M. Wszolek, SWPS University of Social Sciences and Humanities Graphic Design Department, <https://orcid.org/0000-0002-8830-189X>.

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Abstract

This article is about using human orientated methods of design (e.g. design thinking) in the context of teaching design, while the role of design is changing. Design should be described as a *modus operandi* for every social activity that leads through solving problem. General role of design is to animate and moderate social change. In that perspective we are all designers, whether we like it or not. This specific change of design mindset shows great challenge in the new education model, where design is just a small part of study program — in this article it is explained in the context of legal study program.

Keywords: Design, Legal design, Communication, Human centered design, Sensitivity, Teaching legal design

1. Introduction

To say that design is changing is a platitude. Design is an inherently dynamic discipline, as its scope of application originates from issues which are of interest to designers in accordance with the notion of *problem oriented design*. In general point of view design should be describe as a process of problem solving on the way of diagnosis and developing solutions for end users in particular social role (Brown T., 2019). Currently, however, we are observing a fundamental change of paradigm in design, which consists in transforming design into a tool for moderating and animating social change - design has ceased to be a separate discipline, assuming the role of a process facilitator whose task is supplementing deficits in the field of systemic thinking, problem orientation and its solution in the spirit of participation and culture of active feedback. Design provides tools to organize a reflective-oriented process of change, in which the human being is the subject, object and content - of course, what we have in mind are all those design doctrines that place a person in a specific social role in the center of attention. As Wszolek writes, "I do not intend to deprive design and design practice of its professional esteem. On the contrary - I want to see design in terms *modus operandi* of all activities of a social nature, which are assumed to boldly set their goals in the face of considerable challenges. We are all designers, but we work in different areas. Design is a way of thinking about the reality around us in terms of problems and their possible solutions. It is a difficult profession with no simple answers, because the questions to be asked are not simple, either. As I repeatedly say to my students - design should serve of people, be done with people, and it should also concern people "(Wszolek M., 2020, [link](#)). The focus on design as a specialized field operating at the level of specialized tools, techniques and technologies seems doomed to failure. Instead of taking up civilizational challenges, design would then be confined within the hermetic framework of festivals, art galleries or elite groups that simply *can afford it*. We see a serious deficit of equality, egalitarian and inclusive design, which is oriented towards a pragmatic approach in the spirit of Krzysztof Lenek: *lead, clarify, explain*. We are delighted with Deyan Sudjic's imitations (Sudjic D., 2009), instead of opposing the statement of Victor Papanek, who said that "There are, indeed, areas of activity more harmful than industrial design, but there are very few of them" (Papanek V., 2012). It should be clearly stated that the vast majority of the challenges we are currently facing is grounded in design that, instead of breaking deficits, solving problems and educating a reflective citizen (cf. G. Sangiorgi 2017), focused on the splendor of the awards given to these projects and those designers who can respond to the needs of big business (cf. Rand P., 1951). Otl Aicher aptly put it in his essays on design: "We make every effort to put new, perfect makeup on it, and the excess chemicals that arise from the production of global cosmetics - and there is more of these chemicals than of the products themselves - we simply pour into our rivers (...) products are less and less what they are, they are loaded with

symbols, convey content and generate interest that is no longer related to a given thing, but arouse desires and want to satisfy those desires (...) we too rarely ask the question: "What is this product good for, who can stand it?" (Aicher O., 2016: 65-81).

2. To Teach Design — New Perspective

For these reasons, discussed in more detail by Mariusz Wszolek in his book "Theory and Practice of Designing Communication", we see the need to redefine the practice of education in the field of design, at the same time not taking away their rightful place in the higher education system from design and art schools. We do not want to depreciate the status quo of art and design universities, but rather to highlight the possibility of using design thinking to support areas and disciplines that have not yet taken into account design as such.

For the paradigm shift in design to be possible and - more importantly - oriented towards the so-called lean development, it is necessary to change the way of educating future designers. The paradox of teaching design is, among other things, that the term *interdisciplinarity* appears throughout all contexts and instances of education quality control while study areas are assigned to domains and disciplines that operate on a clear and non-contradictory profile of the leading domain / discipline to which the area is assigned. It is because of this paradox that hybrid study programs emerge, in which students, instead of an interdisciplinary society of knowledge, competences, skills and personality, receive a different view of the issue, not from the perspective of the process, but from the perspective of closed teaching units. Hartmut Esslinger points out a similar problem by postulating a new discipline called *Creative Science*. Esslinger sees the need to build design studies based on the achievements of social, economic and ecological sciences, designing the curriculum in the context of civilizational challenges. "The goal of the trans-disciplinary project work is not to educate experts for every compulsory sustainability course. The goal is rather to consciously thematize cross-relationship and dependencies in the process of problem solving, to make them comprehensible, and to impart a fundamental understanding for the complexity of those design tasks oriented toward sustainable development" (Esslinger H., 2012: 42). In terms of the theory and practice of design, Esslinger proposes to distinguish courses that aim to make the audience aware of change (through design), shape (of design) and theory (of design). On the basis of this highly interdisciplinary concept, we would like to propose an approach to educating non-designers in the field of design. What we have in mind is creating a complete didactic component in the form of a reflective design model, in which we concentrate on those design doctrines that focus on individual (human-centred design), social (universal design) and environmental (transformation design) issues in the learning-by-doing format.

2.1 Design Thinking in Design Education

The basis of education here is an interdisciplinary design process that can be used in any market area, taking into account its specificity and scope. Our vision of "changing design through design" and its popularization in the form of design thinking consists in creating a dedicated didactic service for those groups that have not used design as such in their everyday academic or professional activity. The point is not to impose a specific way of thinking and mode of work on anyone, but to offer methodological, cultural and tool support in solving problems. Design cannot be learned, but designing can be learned by applying it. In this context, design thinking allows to see the process, your own and the place of various groups of stakeholders in this process. Such a perspective makes it much easier to act in conditions where the success of an undertaking depends on social relations. From a programme and theoretical point of view, we do not offer an innovative service - such courses are already available under the name "design thinking courses" and are implemented (often successfully) around the world. What, in our opinion, is a significant limitation of this type of service and what Natasha Jen has succinctly defined as *bullshit* is focusing on teaching the tool, and not its positioning in the context of a given field / discipline with all the baggage of its possibilities and limitations. These types of courses, although they allow gaining knowledge in the field of application of the tool, do not provide an interface for its implementation and use in a specific market or academic framework. Hence, we propose not to talk about design thinking, but about the use of design thinking in sectors that may need such support for a better understanding of the problem, context and recipient. Thus, in the legal sector we see the application of design thinking in the form of legal design. Similarly, for other areas, you can build components such as education design, medical design, media design - wherever the basis of functioning is social relations and the dynamics of change in everyday life, one can develop a relevant scope of education practice in a participatory and interdisciplinary way.

3. To Teach Design in Legal Context — Legal Design

Legal design is vast concept that describe every design thinking process that lead to better law readability — it is a mechanism that uses human orientated and participatory design doctrines in the context of social and professional law system. „Legal design is the application of human-centered design to the world of law, to make legal systems and services more human-centered, usable, and satisfying (...) Legal design is a way of assessing and creating legal services, with a focus on how usable, useful, and engaging these services are. It is an approach with three main sets of resources

— process, mindsets, and mechanics — for legal professionals to use. These three resources can help us conceive, build, and test better ways of doing things in law, that will engage and empower both lay people and legal professionals” (Hagan M., 2020). In the case of legal design, we see the possibility to [additionally] educate the representatives of the legal sector in the area we refer to as legal change by design. Here we propose the idea of learning, the aim of which is to complete the legal system by a specific way of thinking about reality (problem solving), social sensitivity (engaged attitude) and the observer's perspective (a-semantic-non-judgmental observation). In this sense, we want to educate change managers, i.e. moderators and animators of processes focused on noticing problems, their precise diagnosis and providing comprehensive solutions. Thus, a completely new role appears - that of a reflective designer, who in his work focuses on the processes of integration, work, cooperation and coordination in relation to such terms as e.g. *wicked problems* [cf. W. Kunz, HW Rittel, 1972, pp. 95–98] or simply civilization challenges, the work on which requires long-term actions aimed at raising awareness, sensitizing and authenticating (3U - new design policy). Animation and moderation boil down to entrusting a certain agency (as regards design) to the recipient of solutions. The designer supports the process in such a way that its beneficiaries are directly responsible for the change. Then the idea of Victor Papanek - that we are all designers - makes sense, because representatives of the legal sector can be designers not because they know the tools, but most of all because they know how to use them consciously and reflectively. The learning process itself is possible if three criteria are met, which are derived from design studies (see graphic design studies at the SWPS University — grafika.swps.pl).

3.1 Sensitivity

First of all, it is necessary to develop a certain type of sensitivity, which is key in design practice, mainly for the purpose of skilfully transporting sensitivity to the cognitive field of the end user. Information must not be passed on, it can be negotiated, bearing in mind that the result of the negotiation is always assigned to an individual. Moving to specific issues: first of all, it is about sensitivity to the issue of a design problem, which is one of the few terms with which design theorists agree - the concept of a problem is the starting point for design practice in almost every design doctrine, the design problem is the goal of diagnosis, and the general goal of design is its efficient solution and providing solutions that are easy to use (we are aware of the repetition). Therefore, in the process of education, it becomes important to develop the ability to observe problems (symptoms), diagnose design problems (causes) and solve them in the appropriate way. Secondly, it is about sensitizing non-designers to the issue of participation, both in terms of work culture as well as the design process, which is about eliminating hierarchical structures of social relations and involving the beneficiaries of the change in the process as partners. Finally, thirdly, it is about sensitizing to the issue of solutions, which can be described after Dieter Rams as "good design meaning as little design as possible". The author of 10 principles of good design draws attention to the issue of design consequences, which, as a rule, taking the form of solutions to design problems, create new problems - system thinking allows observing and modelling specific change scenarios and estimating costs.

3.2 Communication

Secondly, the aim of the education program is to draw attention to the issue of the atmospheric nature of communication, that is, what is not said, but can be heard. This is a very difficult issue to operationalize, because it requires not so much knowledge as its skilful use in everyday communication practice. The point, for example, is not to talk about yourself as a *professional*, but to prove it by talking about anything. The atmospheric nature of communication, i.e. how one communicates, is influenced by such elements as the communication situation, the communication scenario and the issue of communication competences. The first two elements must be learned to be recognized, and the issue of communicative competence must be trained. A good example of manipulating the atmospheric nature of communication is advertising, in which the key is not what the advertising banner shows, but what you want to communicate with the means used - usually the message is not given directly, it is, as if, a form of stage directions. Working on atmospheric in the case of design allows for the efficient building and management of communication, which in the context of legal design is of fundamental importance, regardless of whether we are talking about a direct (e.g. conversation) or mediated (e.g. a written contract) form of communication.

3.3 (Design) Process

As the third element of the education process, we must pay attention to what is emphasized in the context of various courses in the field of design thinking - i.e., developing the skills and competences to organize and manage an iterative form of the design process, both from the perspective of consecutive activities as well as social roles and resources necessary to efficiently carry out the project task. Mariusz Wszolek describes the characteristics of the design process in this way: "The characteristics of the design process - regardless of the adopted design discipline - are difficult to capture within the repeatable algorithm of design work. The difficulty of operationalizing the design process is particularly noticeable in terms of the methodology of creative work, as well as in the context of the necessary technology and tools

within the available space and design spaces." In the literature on the subject (see Best K., 2006, Wszółek M., 2015), one can often find a prototype description of a design procedure, which can be reduced to linear instructions for a specific design task. Obviously, this is not a wrong definition of the repeatable procedure, We would even say that such an algorithmic dimension of the design process is possible to maintain regardless of the adopted design discipline, but the specifics of the design process cannot be reduced to a simple manual. First of all, one should critically approach the linear, cause-and-effect description of the design process, in which the beginning and the end can be distinguished, which, for example, Tim Brown advocates: "Design is a tool to move from idea to reality. Unlike many of the procedures which we are used to - from playing the piano to paying bills - in design, the project is not something that lasts and is limitless. It has a beginning, a middle and an end, and it is these frames that anchor it in the real world" (Brown T., 2016: 52). From the perspective of the market profitability of design, such an approach can be considered understandable, although still wrong due to the specificity of the design process. In the system approach, the design process shows a self-referential structure - no matter whether the action is intentional or accidental. Each end of the project, understood in terms of a functioning design product among end users, is the basis for operationalization of subsequent design activities that depart from a design problem - a design possibility. The focus is therefore a systemic-circular approach to the design process, to which the following algorithm applies: "If the starting point in the design process is a design problem, the main question is: what produced the problem? And since the problem is the observer's perspective, that is, it exists only in the third reality, then it has been produced by an observer for whom the result of the process (solution) does not correspond to the state that the observer would like to see. In other words, it can be said that solving the problem becomes the starting point for the design process. Therefore, the solution of the design problem, regardless of its effectiveness and efficiency, enables the process to be undertaken anew" (Wszółek M., 2015). The literature on the subject (cf. Best K., 2006, Wszółek M., 2015) describes the design process in a closed framework, for which the end point is the implementation and evaluation phase, which does not correspond to a systemic approach to the design process. The specific qualities of the design process assume that the functioning of the solution to the design problem - *the product of design* - is an important aspect of design. The operational stage of solving the design problem (*activity*) is the shift of the center of gravity of the design process to the so-called end user whose reactions become the subject of design evaluation and / or problem construction for further design activities. Referring to the above in an algorithmic way, it can be assumed that the following phases are distinguished in the design process (note: the way of writing them down may indicate a linear closure of the design process, but this is a wrong interpretation. It is just an attempt to adopt a certain textual level of description): problem → analysis → strategic planning → creation → testing → implementation → activity ← evaluation → problem. It should be remembered here that the activity stage is an autonomous phase of the design process, which is uncontrollable (and it should not be) due to the need to objectify the result of the design process. "Due to the significant generalization, the above list of design phases can be applied in any design and manufacturing discipline" (Wszółek M., 2020).

The issue of the education program itself should - in accordance with the recommendations of the Polish Qualifications Framework - take into account three areas: knowledge, skills and competences. In terms of **knowledge**, we see the need to take into account the theory of information design and the emerging sub-field of legal design. The issue of leading methodologies and the context of communication design theory and practice are of particular importance here. A suitable supplement to the knowledge of design theory is the inclusion of alternative, socially oriented design doctrines. All this should be embedded in topics related to the *field of law*.

4. Scope of Study Program

The goal of legal design is not to educate lawyer-designers - that would be a misunderstanding. However, due to the fact that legal design often refers to the issue of perception, aesthetics and visual representation of information, we see the need to learn skills in the field of typography (conscious management of writing), editing and layout (conscious handling of style and format) and multimedia presentations (skilful storytelling in a situation of communicative presentation and self-presentation). The issue of visual thinking, expressed through rapid prototyping, is of particular importance here - in the context of teamwork, skilful handling of a visual prototype becomes a key skill for explaining complex structures, systems and processes. We are of the opinion that the ability to work with text, presentation and form is crucial both in working at the project team level, as well as in working with clients. The last component are social competences which are least tangible, but are of fundamental importance for the skillset of a reflective designer. The basic competence here is communication competence, which allows finding yourself in various contexts and communication situations. Increasingly often people talk not about the ability to work within the design process, but about the competence to find oneself in an iterative environment of active feedback, because this is what the design process is essentially about. As academic teachers with many years of experience, we have observed a serious deficit among young people in the area of the need to build work competences in a project team and manage a project team - the essence is to realize that "it may be different out there".

5. Summary

As we wrote earlier, a reflective designer in the area of legal design is someone that can be characterized by the metaphor of a T-shaped person (cf. Johnston D. 1978), in which specialist knowledge (the arm of the letter T) concerns legal issues, and broad framework of social competences (the cap of T) is based on sensitivity, aesthetics and communication. In our opinion, teaching legal design means primarily convincing representatives of the legal sector to think about their profession in a different way, i.e. convincing them to change the verbal centrism of law to law oriented towards its recipient in its many dimensions: social education, visual thinking about the legal system or creating new forms work and cooperation as regards providing legal services.

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